D.B. CIVIL SPECIAL APPEAL NO.191/2006

[Ghewar Ram & Anr. **Vs**. State of Raj. & Ors.]

Date 19.04.2006

PRESENT

HON'BLE MR.JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P. VYAS

Mr. Pramendra Bohra for the appellants.
Mr. L.R. Upadhyay for the respondents.

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Heard learned counsel for the parties. The order under appeal is in the same manner as was subject matter of D.B. Special Appeal No.3656/2005 DR(J) arising out of S.B. Civil Writ Petition No.254/2001 arising from the order passed on interim application. The order under appeal is as under:-

> "So far the application under section 17-B filed by the respondent is concerned, in view of the fact that stay application has already been dismissed, it is open to the concerned respondent to get the award implemented in accordance with the provisions of the Industrial Disputes Act. As such, I am not inclined to pass any order on the application under Section 17-B. The same is, therefore, dismissed."

The order passed in Writ Petition No.254/2001 as noticed above is subject matter of appeal and the Division Bench of this Court

finding that the order of learned Single Judge cannot be said to be in accordance with law has further found in the interest of justice that instead of remanding the matter back to the learned Single Judge disposed of the matter by directing the respondent-employer to pay full wages to the appellant last drawn by him inclusive of all maintenance allowance admissible to him under the rules, if any. Such payment will be made from the date of filing of the writ petition. In view of the fact that the order passed by the learned Single Judge in this case is exactly similar in the nature, we also dispose of this appeal by setting aside the order under appeal dated 4.1.2006 and directing the respondent State to pay full wages to the appellant last drawn by him inclusive of all maintenance allowance admissible to him under the rules, if any. Such payment will be made from the date of filing of the writ petition i.e. 25.8.2004.

[R.P. VYAS], J. [RAJESH BALIA], J.

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